CLIENT ALERTS & INSIGHTS

New Non-Domiciled Commercial Driver's License (CDL) Rule - Transportation Industry Impacts

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Motor carrier requirements for lawful qualified drivers are under review across the industry following a new FMCSA Interim Final Rule on CDL standards. Here are the key points our team is fielding with clients:

- FMCSA has issued an Interim Final Rule that immediately restricts how State Driver's License Agencies issue commercial driver's licenses and permits to certain non-domiciled drivers.
- The rule increases scrutiny for certain immigrants, which could lead to driver shortages for motor carriers.
- Motor carriers can prepare by proactively reviewing driver files and establishing protocols to limit transportation delays or disruptions.

The Federal Motor Carrier Safety Administration ("FMCSA") issued an interim final rule on September 29, 2025 (the "Interim Final Rule"), amending federal regulations on State Driver's Licensing Agencies' ("SDLAs") issuance of CDLs and commercial learners permits ("CLPs") to non-domiciled drivers. The Interim Final Rule restricts SDLAs' issuance authority and is effective immediately. Comments on the Interim Final Rule are due by November 28, 2025.

1. What does the Interim Final Rule change?

The Interim Final Rule updates FMCSA non-domiciled CDL-related regulatory requirements found at 49 CFR Parts 383 and 384. Some SDLAs have had the practice of issuing non-domiciled CDLs to individuals who are not legal residents of the state but are authorized to work there. Essentially, before this Interim Final Rule, individuals could be issued a CDL or CPL by presenting expired passports. Regulatory requirement updates under the Interim Final Rule include defining the evidence of lawful immigration status and revising the driver application and certification process, SDLA procedures, domicile requirements, and SDLA compliance requirements.

As a result there are now stricter eligibility requirements for the issuance of CDLs and CLPs to certain lawful immigrants. Those persons facing face heightened standards for receiving licenses hold unexpired passports and applicable arrival or departure records, are domiciled in U.S. territories, or are domiciled in states with decertified CDL programs. SDLAs are now required to confirm the CDL and CLP applicants' lawful immigration status under U.S. Citizenship and Immigration Services' ("USCIS") Systematic Alien Verification for Entitlements. SDLAs must also

comply with stronger record keeping requirements, conduct CDL renewals in person, and downgrade CDL or CLP holders that become ineligible.

Now, lawful immigrants must present USCIS-issued evidence of employment status. Solely Temporary Agricultural and Non-Agricultural Workers and Treaty Investors are eligible to apply for non-domiciled CDLs or CLPs. Asylum seekers, asylees, refugees, and Deferred Action for Childhood Arrivals recipients are now ineligible to obtain non-domiciled CDLs or CLPs.

2. What is driving the FMCSA's new Interim Final Rule?

The FMCSA conducts Annual Program Reviews ("APRs") of the SDLAs' compliance with the CDL program. The 2025 APR revealed numerous qualification and eligibility violations and issuance beyond the expiration of drivers' legal presence in the US. The states California, Colorado, Pennsylvania, South Dakota, Texas, and Washington engaged in the issuance of non-domiciled CDLs contrary to regulatory requirements. Five recent fatality accidents involving non-domiciled CDL drivers also gave the FMCSA impulse to implement the Interim Final Rule.

3. Does the Interim Final Rule change the FMCSA's position on the acceptance of comparable testing and licensing standards for non-domiciled drivers from Canada or Mexico?

No, the Interim Final Rule "will not impact drivers domiciled in Canada or Mexico." FMCSA regulations regarding comparable testing and licensing standards remain the same. The FMCSA will continue to allow domestic transportation using CDLs issued under either the Canada National Safety Code or Mexico Law of Highways, Bridges, and Federal Motor Transport just as was the case before the Interim Final Rule. SDLAs will continue to adhere to FMCSA's single license provision prohibiting the issuance of multiple CDLs.

4. How do motor carriers respond to the Interim Final Rule?

The Interim Final Rule is effective immediately. Some motor carriers have already begun to feel the impact through diminished availability of drivers. For example, the Governor of Oklahoma recently reported that Highway Patrol partnered with USCIS to detain 125 undocumented immigrants holding non-domiciled CDLs. Other motor carriers may not experience the impacts of the Interim Final Rule for some time. Each SDLA must update its process to comply with the new requirements prior to continuing to issue new non-domicile CDLs.

One key fact is that the Interim Final Rule does not change motor carrier obligations for qualifying lawful drivers. Motor carriers are still required to confirm that drivers possess a CDL or CLP at onboarding and throughout the employer-employee relationship. Drivers that do not meet the new requirements will not have their CDLs or CLPs renewed. Thus, motor carriers employing drivers that no longer meet the non-domiciled CDL requirements may face workforce disruptions in the near-term and will face a decreased driver pool in the long-term. Practical regulatory compliance and operational steps are another key question we are seeing in the industry. The Interim Final Rule does not require motor carriers to investigate whether non-domiciled CDL drivers will be eligible for CDL renewal. Instead, the Interim Final Rule indicates that carrier-driver relationships will end if the driver cannot renew their CDL. Motor carriers may prepare by reviewing driver qualification files for any non-domiciled CDL drivers and developing protocols to limit delays or disruptions in

transportation. For non-asset property brokers, there is no tangible impact in day-to-day operations beyond continuing to work with carriers under best-in-class broker-carrier agreements.

The Benesch Transportation and Logistics team is always available to provide guidance on the FMCSA evolving safety compliance programs. Benesch client alerts and legal publications are available for you to receive by signing up HERE.

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